



BOX DAC
PATENT
1718-0195P

IN THE U.S. PATENT AND TRADEMARK OFFICE

Applicant: Quibell, Martin et al. Conf.: 8544

Appl. No.: 10/015,186 Group: 1614

Filed: November 16, 2001 Examiner: UNKNOWN

For: CYSTEINE PROTEASE INHIBITORS

Repln. Ref: 01/06/2003 AKELLEY 00000046 REPLACEMENT FOR INCLUSION INTO THE APPLICATION
DAN:0222448 Name/Number:10015186
FC: 9204 \$130.00 CR
Repln. Ref: 01/06/2003 AKELLEY 0010361400 "ALLEGEDLY OMITTED" MATERIAL
DAN:0222448 Name/Number:10015186
FC: 9204 \$130.00 CR

Assistant Commissioner for Patents October 25, 2002

Adjustment date: Washington, DC 20231
10/30/2002 AWONDAF1 00000046 10015186
01 FC:1460 -130.00 OP
Adjustment date: 05/16/2003 AKELLEY 00000010 10015186
09/10/2002 MMARMOL 00000010 10015186
01 FC:122 -130.00 OP

A Notice to File Missing Parts of Non-Provisional

Application was issued May 3, 2002, in connection with the above-identified application and indicated that page 49 of the Specification was missing. In a communication dated July 3, 2002, Applicant argued that page 49 was properly submitted with the original application papers and should have been included in the Application as originally filed and awarded with a filing date of November 16, 2001. At that time, Applicants provided the following evidence to establish that page 49 was duly included in the application filed with the USPTO:

10/30/2002 AWONDAF1 00000046 10015186

01 FC:1460

130.00 OP

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OFFICE OF PETITIONS

- (1) The Transmittal Letter indicating the a Specification consisted of one-hundred sixty-six (166) pages was filed on November 16, 2002 by Express Mail,
- (2) The Express Mail Certificate,
- (3) The Express Mail Label and
- (4) A copy of the Specification as filed which included page 49.

Applicants had not yet received the stamped and dated post card, that had been submitted with the application, from the PTO.

Applicants received a copy of the decision on the Petition, which was mailed from the Office of Petitions on September 24, 2002. In this decision, the Office indicated that the evidence submitted by the Applicant was insufficient to establish that page 49 was filed the original application papers. The decision indicated that "Petitioner has not submitted persuasive evidence to support a claim that page 49 was among the papers filed on November 16, 2001 (e.g., itemized postcard receipt...). The decision also stated that "A post card receipt serves as *prima facie* evidence of receipt in the Office of the items properly identified thereon because the Office reviews the application for the presence of those items."

Applicants have now received the stamped and dated post card that had been submitted with this application at the time of filing. It specifically indicates that a Specification consisting of 166 pages was received. Applicants, therefore, respectfully submit that page 49 was received by the Office on November 16, 2001.

In view of this, Applicants petition for the inclusion of page 49 into the original filed application. Applicants also reserve the right to seek to amend the application to include page 49 of the Specification should the Office persist in its denial of the petition. Applicants again note that the original application papers indicated that the application claims priority to PCT International Application No. PCT/GB00/0184 filed on May 18, 2002, which was published in English and which designated the United States and which was incorporated by reference in its entirety. Enclosed is a copy of pages 23 and 24 of this published PCT application. The text that is present in page 49 of the instant application (the allegedly "omitted" page 49) is recited on page 23, line 9 to page 24, line 10 of the WO 00/69855 publication. Therefore, if the above evidence is deemed insufficient to establish that page 49 was filed with the original application papers, Applicants propose to file an Amendment

which adds the same text based upon then incorporation by reference of WO 00/69855.

In support of this petition, Applicants now submit :

- (1) A copy of the post card, dated by the USPTO, indicating receipt of a Specification of 166 pages.
- (2) A copy of the Specification as filed, which included page 49.

Upon grant of the above petition, Applicants request a refund of the \$130 petition fee, which is enclosed in accordance with 37 CFR § 1.17(h).

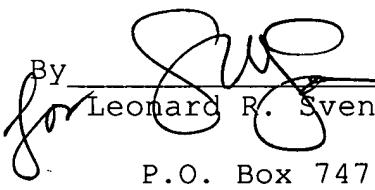
If there are any outstanding matters regarding this petition, please contact the undersigned at (714) 708-8555 in the Southern California area.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

47,604

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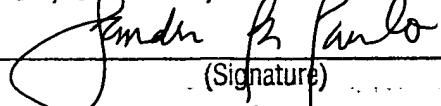
LRS/SWG/sbp
1718-0195P

Attachments

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope to: Commissioner of Patents and Trademarks, Washington

D.C. 20231 on: October 25, 2002
(Date of deposit)

BIRCH, STEWART, KOLASCH & BIRCH, LLP


(Signature)
10.25.02
(Date of Signature)